

## Unauthorised purchase of property at Currawong by chief executive of the Land and Property Management Authority

### ICAC FINDINGS

- The ICAC has found that Warwick Watkins, the Hon Anthony Kelly MLC and Robert Costello engaged in corrupt conduct by using and, in the case of Mr Kelly also creating, a letter backdated to 28 February intended and used to influence a third party in the exercise of their public duty.
- Mr Watkins engaged in corrupt conduct by using the letter to induce others to accept it as genuine in relation to: his statement to, and interview with, the Internal Audit Bureau (IAB) investigator of 22 March and 24 March 2011 respectively; in an attachment to an email to the then director general (DG) of the Department of Premier and Cabinet (DPC); and in letters to the current DG of DPC dated 13 and 20 April 2011 (including the enclosures to those letters).
- Mr Kelly engaged in corrupt conduct by: making the backdated letter with the intention that another would use it to induce a third party to accept it as genuine and thereby influence the exercise of a public duty; and using the backdated letter in his interview with the IAB investigator on 24 March 2011.
- Mr Costello engaged in corrupt conduct by using the backdated letter in the attachment to an email he sent to the then DG of DPC on 25 March 2011.

### ICAC RECOMMENDATIONS

- The ICAC is of the opinion that the advice of the Director of Public Prosecutions (DPP) should be sought with respect to the prosecution of Mr Watkins for five offences of using a false document pursuant to section 254 of the *Crimes Act 1900* in relation to his use of the backdated letter; an offence under section 80(c) of the *Independent Commission Against Corruption Act 1988* of making wilfully false statements to the Commission or attempting to mislead the Commission; and for two offences of making a publication in contravention of a direction given under section 112 of the ICAC Act in relation to disclosing to his chief of staff that he had given evidence at the Commission on 3 June 2011 and disclosing to his chief of staff that he had given evidence at the Commission concerning the backdated letter.
- The ICAC is of the opinion that the advice of the DPP should be sought with respect to the prosecution of Mr Kelly for: an offence under section 253 of the *Crimes Act* in relation to signing and backdating the letter; an offence under section 254 of the *Crimes Act* in relation to referring to and relying on the backdated letter in an interview with the IAB on 24 March 2011; and an offence of misconduct in public office in relation to the making and use of the backdated letter.
- The ICAC is of the opinion that the advice of the DPP should be sought with respect to the prosecution of Mr Costello for an offence under section 254 of the *Crimes Act* in relation to the use of the backdated letter in an attachment to an email sent to the then DG of the DPC on 25 March 2011.
- As Mr Kelly is no longer a member of parliament, and neither Mr Watkins nor Mr Costello are now employed by the NSW Government service, it is not necessary to make any recommendation in relation to disciplinary action.

### BACKGROUND

The Commission's investigation commenced following a report from the then DG of DPC on 21 March 2011 that on 15 March this year, Mr Watkins had exchanged contracts for the purchase of the Currawong site for \$12.2 million. There were questions as to whether Mr Watkins actions were in accordance with necessary authorisations and applicable financial delegations, and concerns that his actions were inconsistent with the caretaker conventions that had been in place since 4 March 2011 in the lead up to the March state election. The full report can be accessed from the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

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